

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4341 OF 1995

Mohan Rajayya Samleti	.. Petitioner
Vs.	
Pundlik Irappa Kankattil	.. Respondent.

Mr.A.A.Kumbhakoni for the petitioner.
Mr.P.M.Shah for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 24TH FEBRUARY, 2005

P.C.:

. Heard Mr.Kumbhakoni, learned counsel for the petitioner and Mr.Shah, learned counsel for the respondent.

2. This petition is directed against the judgment and order dated 5.8.1995 by which Miscellaneous Civil Appeal No.43 of 1995 filed by the respondent-plaintiff was allowed and the petitioner-defendant was restrained from using doors and windows opening towards southern side of his newly constructed house till the decision in the suit. The miscellaneous civil appeal was directed against the judgment and order dated 28.2.1995 by which Exhibit 5 application filed by the respondent-plaintiff was rejected. This Court while

admitting the petition on 15.9.1995 had granted ad-interim stay of the lower appeal court's order dated 5.8.1995. The ad-interim order was thereafter confirmed on 12.12.1997. Keeping that in view and considering the overall facts and circumstances of the case the learned counsel appearing for the parties have agreed for the following order:

. The trial Court shall endeavour to dispose of Regular Civil Suit No.117 of 1995 as expeditiously as possible and preferrably within a period of one year from today. The petitioner is directed to produce a copy of this order before the trial Court within four weeks from today. The interim stay of the lower appeal's court order dated 5.8.1995 granted by this Court on 15.9.1995 shall remain operative till disposal of the suit. The trial Court shall decide the suit on merits in accordance with law and uninfluenced by the observations made in the impugned orders passed in the proceedings arising out of Exhibit-5 application. The parties are directed to co-operate disposal of the suit within aforementioned time.

. Rule is, accordingly, disposed of in the aforesaid terms.

(D.B.Bhosale, J.)